

Remarks

In the subject Action, the Examiner rejected claims 1-20 and 22 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully traverses this rejection and requests reconsideration in view of the above amendments and the reasons set forth below.

Reproduced below are several excerpts from the specification as originally filed. Applicant respectfully submits that, taken together, these excerpts support the relevant recitations in originally filed claims 1 and 22.

"A preferred embodiment amusement device constructed according to the principles of the present invention is designated as 100 in Figures 1-5 (which are drawn to scale)." (page 3, lines 19-21).

"The preferred embodiment body also has opposite top and bottom sides bounded by respective, parallel planes." (page 4, lines 23-25).

"The top side is defined by an outer surface on the first base member 110, and the bottom side is defined by an outer surface on the second base member 120." (page 5, lines 1-3).

"Figure 7 is a top view of a first base member on the amusement device of Figure 1;" (page 2, lines 24-25).

"The top side of the base member 110 includes room for information or texturing (e.g. the FWIDGET logo 101) in a region overlying the leaf spring 132, and room for information or texturing (e.g. FWIDGET embossed in braille 102) in a

region overlying the plunger channel 116. These same regions provide bearing surfaces on which you can place your fingers in a manner that straddles the ball 150 (for reasons described below)." (page 7, lines 4-10).

"Yet another available option is to place the ball 150 on a support surface; place your fingers on the base in a manner that straddles the ball 150; and roll or "surf" the device 100 across the support surface." (page 13, lines 5-8).

Applicant also respectfully submits that the relevant claim language supports an amendment to the specification to include such language in the specification (especially when considered in context with the foregoing excerpts). Accordingly, Applicant is respectfully requesting that the specification be amended as set forth above.

Finally, in a further effort to ensure that claims 1-20 are examined on the merits, Applicant has amended claim 1 to remove the objectionable language and replace it with language found in the specification as originally filed. In this regard, support for the recitation that "a person can place his fingers on the base in a manner that straddles the ball and roll the device across a support surface" may be found at page 13, lines 5-8 of the specification as originally filed. Claim 1 has also been amended to include most of the limitations of dependent claims 2 and 19 (including the limitation that the base have a length up to six inches).

Next, the Examiner rejected claims 21 and 23 under 35 U.S.C. 102(b) as being anticipated by the cited patent to Thomson et al.

Applicant respectfully traverses this rejection and requests reconsideration in view of the above amendments and the reasons set forth below.

Claim 21, from which claim 23 depends, has been amended to include most (but admittedly not all) of the limitations of allowable claim 25. However, the only excluded limitation is that the base be at least three inches long. Thus, it is believed that the critical limitations in allowable claim 25 have been added to claim 21, so that claim 21 will now be allowed. In any event, Applicant also wishes to reserve the right to argue that the Thomson et al. reference is non-analogous art vis-a-vis the claimed invention.

Next, the Examiner rejected claim 26 under 35 U.S.C. 102(b) as being anticipated by the cited patent to Hanson et al. Applicant respectfully traverses this rejection and requests reconsideration in view of the above amendments and the reasons set forth below.

Claim 26 has been amended to recite that the base is less than six inches long, and that it is sized and configured to be held in hand between a person's thumb and opposing finger, and selectively spun about an axis extending therebetween. Claim 26 has also been amended to recite a spherical ball rotatably mounted in the base in such a manner that a portion of the ball protrudes outward from the base, and a person can roll the ball relative to the base. Applicant also wishes to reserve the right to argue that the Hanson et al. reference is non-analogous art vis-a-vis the claimed invention.

Finally, the Examiner noted that claims 24-25 recited allowable subject matter. Applicant appreciates this finding and, as noted above, has amended claim 21 to include all but one of the limitations of allowable claim 25.

Having addressed the issues raised in the subject Action, Applicant respectfully requests reconsideration and allowance of the subject application. If any issue remains unresolved, the Examiner is certainly welcome to contact Applicant at the telephone number set forth below.

Respectfully submitted,

MAK
Mark A. Krull
Reg. No. 34,205

(541) 385-0383

BEST AVAILABLE COPY